

REMARKS

Claims 1 and 17 have been amended. Claim 7 has been canceled. New claims 25-28 have been added. Accordingly, claims 1-6 and 8-26 are currently pending in this application.

The status of the claims in light of the above referenced Office Action is as follows:

A. Claims 1-3, 6-9, and 17-19 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,887,388 ("Hempel").

B. Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hempel.

C. Claims 10, 11, 12, 13, 14, 15, 16, 20, 21 and 22-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hempel in view of U.S. Patent No. 5,816,237 ("Fleming").

D. Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Hempel in view Fleming, and in further view of U.S. Patent No. 6,216,687 ("Campbell").

Response to Section 102 Rejection

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Hempel. As described below, the rejection of claim 1 should be withdrawn because Hempel does not disclose or suggest all of the features of this claim.

(1) Claim 1 is directed to a fireplace installation assembly that includes a furniture unit and a heat-generating fireplace, wherein the fireplace installation assembly is self-supporting and movable as a unit.

Amended claim 1 is directed toward a fireplace installation assembly that includes a furniture unit comprising a decorative front facing portion having an upper portion and a

lower portion. The fireplace installation assembly is self-supporting and movable as unit. The upper portion has an enlarged receptacle therein. The lower portion is adapted to engage a support surface. The fireplace installation assembly further includes a heat-generating fireplace unit positioned in the enlarged receptacle in the upper portion of the furniture unit. The fireplace unit has a firebox configured to contain a fire and a viewing portion that provides visibility of the fire in the firebox from exterior of the fireplace unit.

(2) Hempel discloses a template for a built-in fireplace unit.

Hempel discloses a system for installing a gas fireplace and associated cabinetry into the wall of a building (col. 1, line 53 – col.2, line 29). In Hempel, templates for a fireplace unit and associated cabinetry are first joined together and positioned at their proper location (col. 33, 34-45). The templates are then secured to the subfloor of the building (col. 33, 34-45). The template for the fireplace is positioned so that a rearward edge abuts and contacts the wall studs (col. 33, 34-55). The fireplace template also includes a drywall flange and a drywall cavity (col. 33, 34-55). The drywall cavity is sized to receive drywall when drywall is installed over the studs (col. 33, 34-55). After the fireplace template is positioned to abut the wall studs and secured to the subfloor, a fireplace unit is positioned on and anchored to the template (col. 3, lines 58-67). The venting, gas lines, and electrical circuitry is then connected to the fireplace unit (col. 4, lines 8-27). The drywall is then attached to the studs (col. 4, lines 28-37). The drywall slides behind the flange and into the drywall cavity discussed above (col. 4, lines 28-37). Finally, the cabinetry is installed around the fireplace unit (col. 4, lines 28-37). Accordingly, Hempel discloses installing cabinetry around a built-in fireplace unit that has already been anchored to the subfloor and the wall of the building via the template.

(3) Hempel does not disclose a fireplace installation assembly that includes a furniture unit and a heat-generating fireplace, wherein the fireplace installation assembly is self-supporting and movable as a unit.

Hempel does not teach or suggest the combination of elements set forth in claim 1. For example, Hempel does not teach or suggest a fireplace installation assembly that includes a furniture unit and a heat-generating fireplace, wherein the fireplace installation assembly is self-supporting and movable as a unit. Embodiments of the present application include a freestanding fireplace installation assembly that includes a self-supporting and movable furniture unit with a heat-generating fireplace unit positioned in an upper portion of the furniture unit (see para. 18-21, Figure 1A-2). In contrast, Hempel teaches installing cabinetry around a built-in fireplace unit that has already been anchored to the subfloor and the wall of the building via the template. Hempel does not teach or suggest a fireplace installation assembly that is self-supporting and movable as a unit, as recited in claim 1. Hempel teaches away from a self-supporting and moveable fireplace installation as claimed.


For at least these reasons claim 1 is patentable over Hempel. Claims 2-6, 8-16, 27, and 28 depend from claim 1 and, for at least this reason, are also patentable over Hempel. Claim 17 contains, *inter alia*, features generally similar to those of claim 1. For at least this reason claim 17 is also patentable over Hempel. Claims 18-26 depend from claim 17, and for at least this reason, they too are patentable over Hempel.

In view of the foregoing, the pending claims comply with 35 U.S.C. § 112 and are patentable over the applied art. The applicant accordingly requests reconsideration of the application and a Notice of Allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-6477.

No fees are believed due with this communication. However, the Commissioner is hereby authorized and requested to charge any deficiency in fees herein to Deposit Account No. 50-0665.

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Respectfully submitted,

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